



International Narcotics Control Strategy Report - 2008

Released by the Bureau of International Narcotics and Law Enforcement Affairs

March 2008

Read full text to report at: <http://www.state.gov/p/inl/rls/nrcrpt/2008/>

Argentina

Volume I: Drug and Chemical Control

Summary

Argentina is a transshipment point for Andean-produced cocaine destined for Europe and for Colombian heroin destined for the United States. It is also a source country for precursor chemicals, owing to its advanced chemical production facilities. Seizures of cocaine in 2007 were on par with levels in 2006, but authorities reported an increase in the number of small labs that convert cocaine base to cocaine hydrochloride (HCl). Argentina is a party to the 1988 UN Drug Convention.

II. Status of Country

Argentina is a transit country for cocaine from Bolivia, Peru and Colombia destined for Europe and, to a lesser extent, for Colombian heroin en route to the United States. Marijuana is the most commonly smuggled and consumed drug in Argentina, followed by cocaine (HCl) and inhalants, respectively. U.S.-Argentine counternarcotics cooperation rests on robust law enforcement cooperation, which will be further enhanced when the judicial sector completes the transition from an inquisitorial legal system to an accusatory system. As one of South America's largest producers of precursor chemicals it is vulnerable to diversion of these chemicals into the illicit drug production market. The Government of Argentina (GOA) has introduced modifications to its chemical control regime to address this vulnerability.

III. Country Actions Against Drugs in 2007

Policy Initiatives. Argentina is in the process of transitioning from a written, inquisitorial judicial system to an oral, accusatory system. In 2007, confidence in the legal system remained low because of excessive delays between arrest and final judicial rulings and the lack of judicial transparency. The Justice Ministry prepared draft legislation to update the federal criminal code and the criminal procedure code to address shortcomings and inefficiencies in the investigation and prosecution of drug trafficking crimes. The legislation was not presented to Congress in 2007. The Ministry of Interior (MOI) and the Secretariat of Planning for the Prevention of Drug Addiction and Drug Trafficking (SEDONAR) share the responsibility for directing Argentina's counternarcotics efforts. The Ministry of Interior oversees federal law enforcement agencies (e.g.

operations) and SEDRONAR coordinates federal narcotics policy. The Minister of Interior instituted steps to improve inter-agency cooperation, including hosting coordination meetings, creating unified databases and standardizing protocols for conducting drug investigations. He also instructed the Directorate of Criminal Intelligence (DIC) to develop training and other tools to establish an undercover narcotics agent program. Two resolutions established an interagency training unit for the investigation of complex narco trafficking and organized crimes and created an operational exchange program between federal and provincial law enforcement agencies. Argentina passed legislation in 1996 to control chemical substances, and the law was modified in 2005 to introduce additional controls on, inter alia, precursor chemicals. These modifications resulted in some improvements, but the law still lacks implementing legislation to impose penalties commensurate with violations.

Accomplishments. Complete federal statistics on seizures continue to be difficult to obtain because two agencies, UFIDRO (Prosecutorial Support Unit for the Investigation of Complex Offenses and Organized Crime) and SEDRONAR maintain different databases. UFIDRO nominally falls under the control of the Attorney General's office (Procurador General), but its activities are financed by the MOI. UFIDRO began collecting seizure data from the federal law enforcement agencies and Customs in 2006 while SEDRONAR, which historically compiled seizure statistics, now only receives seizure data from the provincial police forces. Statistics through October 2007 show that federal and provincial law enforcement agencies seized nearly 8 metric tons (MT) of cocaine in 2007, 45.6 MT of coca leaf, 74.6 MT of marijuana and 5 kg of heroin. While these figures represent only ten months of the year, figures for all of 2006 were similar or higher – 8 MT of cocaine, 49.5 MT of coca leaf, 93.5 MT of marijuana and 50.8 kg of heroin.

Law Enforcement Efforts. The ongoing transition from the an inquisitorial legal system to an accusatorial system has caused excessive delays between arrest and final rulings and, as a result, eroded public confidence. However, important reforms are underway, and a principal one will place responsibility for investigations with the prosecutors. Under the current system, judges have the primary responsibility for conducting investigations. Other proposed reforms will allow prosecutors and judges more leeway in determining which cases to prosecute and will strengthen the oral trial system. One of the objectives of these reforms is to shorten the preliminary investigative period (etapa instructoria). A primary impetus in pushing these reforms is to give law enforcement agencies and the judiciary branch updated legal tools to go after organized trafficking networks. On several occasions during 2007, the Interior Minister noted publicly that too much effort and too many resources were used to go after small-scale dealers and users when the primary should be on the large-scale traffickers. Presidential decrees placed controls on precursor and essential chemicals, requiring that all manufacturers, importers or exporters, transporters, and distributors of these chemicals be registered with SEDRONAR. In the first seven months of 2007, the National Precursor Chemical Registry registered 1,019 new companies, reregistered 3,084 companies and issued 302 export authorizations and 1,349 import authorizations.

Corruption. The GOA is publicly committed to fighting corruption and prosecuting those implicated in corruption investigations. It is not government policy nor are any senior GOA officials known to engage in, encourage, or facilitate the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances or the laundering of proceeds from illegal drug transactions.

Agreements and Treaties. Argentina is a party to the 1988 UN Drug Convention, the 1971 UN Convention on Psychotropic Substances, the UN Convention against Transnational Organized Crime and its three Protocols, and the UN Convention against Corruption. The United States and Argentina are parties to an extradition treaty that entered into force on June 15, 2000, and a bilateral mutual legal assistance treaty that entered into force on December 13, 1990. Both of these agreements are actively used by the United States with the GOA. Argentina has bilateral narcotics cooperation agreements with many neighboring countries; Spain, the United Kingdom, Germany, Australia, France, Italy and the Netherlands provide limited training and equipment. In 1990, the U.S. Customs and Border Protection signed a Customs Mutual Assistance Agreement with the Government of Argentina. Argentina is also a party to the Inter-American Convention against Corruption, Inter-American Convention of Mutual Assistance in Criminal Matters, the Inter-American Convention against Trafficking in Illegal Firearms, and the Inter-American Convention against Terrorism.

Cultivation/Production. Argentine press reporting indicates that there has been an increase in the number of small kitchen labs converting cocaine base to HCl or producing cocaine base. Six HCl labs and two cocaine base labs were seized in the first half of 2007. Small amounts of marijuana are cultivated, mostly for domestic consumption.

Drug Flow/Transit. Historically, Colombian-produced heroin transiting Argentina is smuggled aboard commercial flights going directly to the U.S. or through Mexico and across the Southwest border. However, no seizures were recorded in the first six months of 2007. Colombian cocaine HCl entering Argentina is generally destined for international cocaine markets in Europe and the U.S. Cocaine HCl seizures have risen significantly over the past two years. There is an indigenous population along the northern border with Bolivia that traditionally consumes coca leaf, however no maceration pits were found in 2007, and only one was found in 2006. Proceeds from drug smuggling ventures organized in Argentina are often brought back to the country by couriers in bulk cash shipments and then wired to the United States for investments or smuggled directly into the United States. Almost all of the marijuana consumed in Argentina originates in Paraguay, and is smuggled across the border into the provinces of Misiones and Corrientes where it is then transported overland to urban centers.

Demand Reduction Programs. The GOA, in collaboration with some private sector entities, sponsors a variety of print and broadcast information campaigns which have a nationwide reach. SEDRONAR coordinates the GOA's demand reduction efforts. Argentina inaugurated its first National Drug Plan in 2005, and initiated a number of demand reduction programs in 2006 that continued in 2007. They include a school-based program targeting 10-14 year-olds, a sports-based prevention program, a community prevention program and one focused on vulnerable populations. The latter has a specific focus on the use of a cheap cocaine-based drug, "paco," which is increasingly prevalent among poorer populations in the northeastern provinces and has caused devastating health effects on these marginalized sectors and caused an increase in criminal activity.

IV. U.S. Initiatives and Programs

Policy Initiatives. U.S. efforts in Argentina center on four core areas: reducing Argentina's role as a transit point for drug trafficking by disrupting and dismantling the major drug trafficking

organizations in the region; promoting regional counternarcotics cooperation with Andean and Southern Cone nations; maximizing host nation drug enforcement capabilities; and fortifying bilateral cooperation with host nation law enforcement agencies.

Bilateral Cooperation. The cornerstone of the USG's law enforcement support, with INL funding and DEA expertise is the Northern Border Task Force (NBTF), a joint law enforcement group comprising federal and provincial elements operating in Argentina's northwestern provinces of Jujuy and Salta to interdict the drug flow from Colombia, Peru and Bolivia. In 2007, DEA and GOA law enforcement agencies created the Eastern Border Task Force (EBTF), modeled after the NBTF and focused on the illicit drug smuggling activities in the tri-border area with Paraguay and Brazil.

The Drug Enforcement Administration (DEA) works closely with Argentine federal and provincial law enforcement agencies, prosecutors and judges, and SEDRONAR and UFIDRO to improve coordination, cooperation, training and exchanges. DEA and the Legal Attache's office (LEGATT) are particularly focused on working with prosecutors and judges on improving and updating investigation and prosecution techniques vis-a-vis narcotics trafficking and other complex crimes.

Argentine law enforcement agencies, with DEA support, continued to participate in Gran Chaco and Operation Seis Fronteras (Six Frontiers) with counterparts in Bolivia. Mission's Immigration and Customs Enforcement office (ICE) participated in "Operation Andes III," a joint program sponsored by INTERPOL and the World Customs Organization (WCO) to coordinate the interdiction of precursor chemicals in South America. Participants included national police and customs agencies from Argentina, Brazil, Bolivia, Chile, Colombia, Ecuador, French Guyana, Paraguay, Peru, Uruguay and Venezuela. U.S. Immigration and Customs Enforcement (ICE) provided advisory support for precursor shipment identification and investigative response.

The U.S. Coast Guard (USCG) provided a number of training opportunities to the Argentina Prefectura. Mobile training teams conducted two maritime law enforcement courses and one port physical security course in Argentina during 2007. The Prefectura also sent officers to the USCG's crisis command and control, leadership and international maritime officer courses. Argentina also stationed an LNO (liaison officer) at JIATF-S to facilitate cooperation.

The Road Ahead. The GOA is seeking congressional approval of reforms to the criminal procedure code that would streamline and shorten the cases and caseload, greatly enhancing the government's ability to prosecute narcotics-related crimes, among others. The GOA is also seeking to tighten control of precursor chemicals, improve coordination among law enforcement agencies, integrate databases to enable more thorough investigations, and pursue greater transparency in the judicial system. The U.S. Mission will continue to make bilateral law enforcement cooperation the foundation of its efforts, using the Northern Border Task Force (NBTF) and the newly established Eastern Border Task Force (EBTF) as the centerpieces to augment GOA interdiction and enforcement capabilities. Mission elements will also work to establish and support a new working group involving the GOA's Customs and Coast Guard agencies to facilitate greater investigative cooperation on maritime security. The USG will lend support to ongoing operations at border areas, including Gran Chaco and Operation Six Frontiers. The Mission is supporting the U.S. Treasury's Office of Technical Assistance in developing for 2008 a technical support and training program for the Argentine Central Bank and government regulatory agencies (including the

FIU), to strengthen Argentina's anti-money laundering and counterterrorism finance efforts. U.S. technical support will also continue to foster stronger precursor chemical control and compliance measures.

Volume II: Money Laundering and Financial Crimes

Country Reports: Argentina

Argentina is neither an important regional financial center nor an offshore financial center. Money laundering related to narcotics trafficking, corruption, contraband, and tax evasion is believed to occur throughout the financial system, in spite of the efforts of the Government of Argentina (GOA) to stop it. The financial sector's continuing recovery from the 2001-02 financial crisis and post-crisis capital controls may have reduced the incidence of money laundering through the banking system. However, transactions conducted through nonbank sectors and professions, such as the insurance industry, financial advisors, accountants, notaries, trusts, and companies, real or shell, remain viable mechanisms to launder illicit funds. Tax evasion is the predicate crime in the majority of Argentine money laundering investigations. Argentina has a long history of capital flight and tax evasion, and Argentines hold billions of dollars offshore, much of it legitimately earned money that was never taxed.

In 2007, the Argentine Congress passed legislation criminalizing terrorism and terrorist financing. Law 26.268, "Illegal Terrorist Associations and Terrorism Financing", entered into effect in mid-July. The law amends the Penal Code and Argentina's anti-money laundering law, Law No. 25.246, to criminalize acts of terrorism and terrorist financing, and establish terrorist financing as a predicate offense for money laundering. Persons convicted of terrorism are subject to a prison sentence of five to 20 years, and those convicted of financing terrorism are subject to a five to 15 year sentence. The new law provides the legal foundation for Argentina's financial intelligence unit (the Unidad de Información Financiera, or UIF), Central Bank, and other regulatory and law enforcement bodies to investigate and prosecute such crimes. The adoption of counter-terrorist financing legislation effectively removes Argentina from the Financial Action Task Force's (FATF) follow-up process, which began in 2004 to address deficiencies in the GOA's anti-money laundering and counter-terrorist financing (AML/CTF) regime. With the passage of Law 26.268, Argentina also joins Chile, Colombia, and Uruguay as the only countries in South America to have criminalized terrorist financing.

On September 11, 2007, President Nestor Kirchner signed into force the National Anti-Money Laundering and Counter-Terrorism Finance Agenda. The overall goal of the National Agenda is to serve as a roadmap for fine-tuning and implementing existing money laundering and terrorist financing laws and regulations. The Agenda's 20 individual objectives focus on closing legal and regulatory loopholes and improving interagency cooperation. The next challenge is for Argentine law enforcement and regulatory institutions, including the Central Bank and UIF, to implement the National Agenda and aggressively enforce the newly strengthened and expanded legal, regulatory, and administrative measures available to them to combat financial crimes.

Argentina's primary anti-money laundering legislation is Law 25.246 of May 2000. Law 25.246 expands the predicate offenses for money laundering to include all crimes listed in the Penal Code,

sets a stricter regulatory framework for the financial sectors, and creates the UIF under the Ministry of Justice and Human Rights. The law requires customer identification, record keeping, and reporting of suspicious transactions by all financial entities and businesses supervised by the Central Bank, the Securities Exchange Commission (Comisión Nacional de Valores, or CNV), and the National Insurance Superintendence (Superintendencia de Seguros de la Nación, or SSN). The law forbids institutions to notify their clients when filing suspicious transaction reports (STRs), and provides a safe harbor from liability for reporting such transactions. Reports that are deemed by the UIF to warrant further investigation are forwarded to the Attorney General's Office.

Law 26.087 of March 2006 amends and modifies Law 25.246 to address many previous deficiencies in Argentina's anti-money laundering regime. It makes substantive improvements to existing law, including lifting bank, stock exchange, and professional secrecy restrictions on filing suspicious activity reports; partially lifting tax secrecy provisions; clarifying which courts can hear requests to lift tax secrecy requests; and requiring court decisions within 30 days. Law 26.087 also lowers the standard of proof required before the UIF can pass cases to prosecutors, and eliminates the so-called "friends and family" exemption contained in Article 277 of the Argentine Criminal Code for cases of money laundering, while narrowing the exemption in cases of concealment. Overall, the law clarifies the relationship, jurisdiction, and responsibilities of the UIF and the Attorney General's Office, and improves information sharing and coordination. The law also reduces restrictions that have prevented the UIF from obtaining information needed for money laundering investigations by granting greater access to STRs filed by banks. However, the law does not lift financial secrecy provisions on records of large cash transactions, which are maintained by banks when customers conduct a cash transaction exceeding 10,000 pesos (approximately U.S. \$3,200).

In September 2006, Congress passed Law 26.119, which amends Law 25.246 to modify the composition of the UIF. The law reorganized the UIF's executive structure, changing it from a five-member directorship with rotating presidency to a structure that has a permanent, politically-appointed president and vice-president. Law 26.119 also established a UIF Board of Advisors, comprised of representatives of key government entities, including the Central Bank, AFIP, the Securities Exchange Commission, the national counternarcotics secretariat (SEDRONAR), and the Justice, Economy, and Interior Ministries. The Board of Advisors' opinions on UIF decisions and actions are nonbinding.

The UIF has issued resolutions widening the range of institutions and businesses required to report suspicious or unusual transactions beyond those identified in Law 25.246. Obligated entities include the tax authority (Administración Federal de Ingresos Públicos, or AFIP), Customs, banks, currency exchange houses, casinos, securities dealers, insurance companies, postal money transmitters, accountants, notaries public, and dealers in art, antiques and precious metals. The resolutions issued by the UIF also provide guidelines for identifying suspicious or unusual transactions. All suspicious or unusual transactions, regardless of the amount, must be reported directly to the UIF. Obligated entities are required to maintain a database of information related to client transactions, including suspicious or unusual transaction reports, for at least five years and must respond to requests from the UIF for further information within 48 hours. As of September 30, 2007, the UIF had received 2851 reports of suspicious or unusual activities since its inception in 2002, forwarded 165 suspected cases of money laundering to prosecutors for review, and assisted prosecutors with 121 cases. There have been only two money laundering convictions in Argentina

since money laundering was first criminalized in 1989, and none since the passage of Law 25.246 in 2000.

The Central Bank requires by resolution that all banks maintain a database of all transactions exceeding 10,000 pesos, and periodically submit the data to the Central Bank. Law 25.246 requires banks to make available to the UIF upon request records of transactions involving the transfer of funds (outgoing or incoming), cash deposits, or currency exchanges that are equal to or greater than 10,000 pesos (approximately U.S. \$3200). The UIF further receives copies of the declarations to be made by all individuals (foreigners or Argentine citizens) entering or departing Argentina with over U.S. \$10,000 in currency or monetary instruments. These declarations are required by Resolutions 1172/2001 and 1176/2001, which were issued by the Argentine Customs Service in December 2001. In 2003, the Argentine Congress passed Law 22.415/25.821, which would have provided for the immediate fine of 25 percent of the undeclared amount, and for the seizure and forfeiture of the remaining undeclared currency and/or monetary instruments. However, the President vetoed the law because it allegedly conflicted with Argentina's commitments to MERCOSUR (Common Market of the Southern Cone).

Although the GOA has passed a number of new laws in recent years to improve its AML/CTF regime, Law 25.246 still limits the UIF's role to investigating only money laundering arising from seven specific crimes. The law also defines money laundering as an aggravation after the fact of the underlying crime. A person who commits a crime cannot be independently prosecuted for laundering money obtained from the crime; only someone who aids the criminal after the fact in hiding the origins of the money can be guilty of money laundering. Another impediment to Argentina's anti-money laundering regime is that only transactions (or a series of related transactions) exceeding 50,000 pesos (approximately U.S. \$16,000) can constitute money laundering. Transactions below 50,000 pesos can constitute only concealment, a lesser offense.

In 2006 and 2007, the National Coordination Unit in the Ministry of Justice and Human Rights became fully functional, managing the government's AML/CTF efforts and representing Argentina at the FATF and the Financial Action Task Force for South America (GAFISUD). The Attorney General's special investigative unit set up to handle money laundering and terrorism finance cases began operations in 2007. The proposal by the Argentine Banking Superintendence to create a specialized anti-money laundering and counter-terrorism finance examination program is awaiting authorization and is not yet operational.

Argentina's Narcotics Law of 1989 authorizes the seizure of assets and profits, and provides that these or the proceeds of sales will be used in the fight against illegal narcotics trafficking. Law 25.246 provided that proceeds of assets forfeited under this law can also be used to fund the UIF.

Prior to the passage of terrorist financing legislation in June 2007, the Central Bank was the lead Argentine entity responsible for issuing regulations on combating the financing of terrorism. The Central Bank issued Circular A 4273 in 2005 (titled "Norms on 'Prevention of Terrorist Financing'"), requiring banks to report any detected instances of the financing of terrorism. The Central Bank regularly updates and modifies the original Circular. The Central Bank of Argentina also issued Circular B-6986 in 2004, instructing financial institutions to identify and freeze the funds and financial assets of the individuals and entities listed on the list of Specially Designated Global Terrorists designated by the United States pursuant to E.O. 13224. It modified this circular with

Resolution 319 in October 2005, which expands Circular B-6986 to require financial institutions to check transactions against the terrorist lists of the United Nations, United States, European Union, Great Britain, and Canada. No assets have been identified or frozen to date. The GOA and Central Bank assert that they remain committed to freezing assets of terrorist groups identified by the United Nations if detected in Argentine financial institutions.

In December 2006, the U.S. Department of Treasury designated nine individuals and two entities that have provided financial or logistical support to Hizballah and operate in the territory of neighboring countries that border Argentina. This region is commonly referred to as the Tri-Border Area, between Argentina, Brazil, and Paraguay. According to the designation, the nine individuals have provided financial support and other services for Specially Designated Global Terrorist Assad Ahmad Barakat, who was previously designated by the U.S. Treasury in June 2004 for his support to Hizballah leadership. The two entities, Galeria Page and Casa Hamze, are located in Ciudad del Este, Paraguay, and have been used in generating or moving terrorist funds. The GOA joined the Brazilian and Paraguayan governments in publicly disagreeing with the designations, stating that the United States had not provided new information proving terrorist financing activity is occurring in the Tri-Border Area.

Working with the U.S. Department of Homeland Security's Office of Immigration and Customs Enforcement (ICE), Argentina has established a Trade Transparency Unit (TTU). The TTU examines anomalies in trade data that could be indicative of customs fraud and international trade-based money laundering. The TTU has discovered a major discrepancy in import-export data and is supporting an on-going investigation. One key focus of the TTU, as well as of other TTUs in the region, will be financial crimes occurring in the Tri-Border Area. The creation of the TTU was a positive step towards complying with FATF Special Recommendation VI on terrorist financing via alternative remittance systems. Trade-based systems often use fraudulent trade documents and over and under invoicing schemes to provide counter valuation in value transfer (hawala) and settling accounts.

The GOA remains active in multilateral counternarcotics and international AML/CTF organizations. It is a member of the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering, the FATF and GAFISUD. The GOA is a party to the 1988 UN Drug Convention, the UN International Convention for the Suppression of the Financing of Terrorism, the Inter-American Convention against Terrorism, the UN Convention against Transnational Organized Crime, and the UN Convention against Corruption. Argentina participates in the "3 Plus 1" Security Group (formerly the Counter-Terrorism Dialogue) between the United States and the Tri-Border Area countries. The UIF has been a member of the Egmont Group since July 2003, and has signed memoranda of understanding regarding the exchange of information with a number of other financial intelligence units. The GOA and the USG have a Mutual Legal Assistance Treaty that entered into force in 1993, and an extradition treaty that entered into force in 2000.

With passage of counter-terrorist financing legislation and strengthened mechanisms available under Laws 26.119, 26.087, and 25.246, Argentina has the legal and regulatory capability to combat and prevent money laundering and terrorist financing. Furthermore, the new national anti-money laundering and counter-terrorist financing agenda provides the structure for the Government of Argentina to improve existing legislation and regulation, and enhance inter-agency

coordination. The challenge now is for Argentine law enforcement and regulatory agencies and institutions, including the Ministry of Justice, Central Bank, and UIF, to implement the National Agenda and aggressively enforce the newly strengthened and expanded legal, regulatory, and administrative measures available to them to combat financial crimes. The GOA could further improve its legal and regulatory structure by enacting legislation to expand the UIF's role to enable it to investigate money laundering arising from all crimes, rather than just seven enumerated crimes; establishing money laundering as an autonomous offense; and eliminating the current monetary threshold of 50,000 pesos (approximately U.S. \$16,000) required to establish a money laundering offense. To comply with the FATF recommendation on the regulation of bulk money transactions, Argentina should review the legislation vetoed in 2003 to find a way to regulate such transactions consistent with its MERCOSUR obligations. Other continuing priorities are the effective sanctioning of officials and institutions that fail to comply with the reporting requirements of the law, the pursuit of a training program for all levels of the criminal justice system, and the provision of the necessary resources to the UIF to carry out its mission. There is also a need for increased public awareness of the problem of money laundering and its connection to narcotics, corruption, and terrorism.